April 11-12, 2019
AMERICAN BAR ASSOCIATION
Section of State and Local Government Law Continuing Legal Education

33rd Annual Land Use Institute:
Planning, Regulation, Litigation, Eminent Domain, and Compensation

Cosponsored by

University of Baltimore School of Law

American Bar Association Section of Civil Rights and Social Justice

American Bar Association
Section of Real Property, Trusts & Estates

American Bar Association
Forum on Affordable Housing and Community Development Law

Inversecondemnation.com

Property, Regulatory Takings, Eminent Domain, and Land Use Blog

Thursday and Friday, April 11-12, 2019

Course Venue
John and Frances Angelos Law Center
University of Baltimore School of Law Baltimore, MD

Hotel
Royal Sonesta Harbor Court Baltimore, MD
WHY ATTEND
Local government land use decisions affect economic development and quality of life. They can also create major challenges to efforts by property owners to develop and use their property, as well as to residents as they cope with growth and change.

This Annual Land Use Institute program is designed for attorneys, professional planners, and government officials involved in land use planning, zoning, permitting, property development, conservation and environmental protection, and related litigation. It not only addresses and analyzes the state-of-the-art efforts by government to manage land use and development, but also presents the key issues faced by property owners and developers in obtaining necessary governmental approvals. In addition, the entire approach of the program is to provide practice pointers that give immediate “take home value” by focusing on topics relevant to the average practice of the attendee.

This outstanding program features:

- Preeminent faculty of practitioners and academics who provide nationwide perspective without losing sight of state specific issues;
- Critical review and analysis of the most important new decisions;
- Practice-oriented discussion of basics and “hot” topics;
- Guidance on routine and complex procedural issues; and
- Outstanding networking opportunities, including continental breakfast, breaks and a joint reception for registrants and faculty with participants in the ABA State and Local Government Law Section Spring Meeting.

This course is an investment in your practice, in your career, in your ability to get out ahead of the competition in serving your clients, and in the appreciation and intellectual satisfaction you can get only from having knowledge of land use at the cutting edge.

WHAT YOU WILL LEARN
This course of study, comprising 12 hours of CLE instruction, including 2 hours of Ethics CLE, is designed to provide an effective and efficient review of current issues in land use for attorneys, planners, public officials, developers, and academics. Now in its 33rd year, the Land Use Institute has earned its role as one of the most comprehensive land use continuing education program available.

The Land Use Institute is now sponsored by the ABA’s Section of State & Local Government Law. Co-sponsors include: University of Baltimore School of Law; American Bar Association Section of Civil Rights and Social Justice; American Bar Association Section of Real Property, Trusts & Estates; American Bar Association Forum on Affordable Housing and Community Development Law; Inversecondemnation.com, the Property, Regulatory Takings, Eminent Domain, and Land Use Blog.

The schedule of the presentations and panels of the Land Use Institute has been designed to accommodate the program of the State & Local Government Spring Conference, facilitating the ability to travel between venues to attend desired sessions at each location.
The distinguished panel of diverse national faculty includes (and subject to change):

**Planning Chair** (also on faculty)

Frank Schnidman, former Distinguished Professor of Urban and Regional Planning, and former John M. DeGrove Eminent Scholar Chair, Florida Atlantic University, Boca Raton, FL

**Planning Co-Chair** (also on faculty)

Patricia E. Salkin, Provost for the Graduate and Professional Division, Touro College, New York, NY

**Faculty**

Sarah Adams-Schoen, William H. Bowen School of Law, University of Arkansas, Little Rock, AR

Dennis W. Archer, Former Mayor of Detroit (1986-1990 and 1994-2001); Former ABA President; Chairman Emeritus, Dickinson Wright PLLC, Chairman and CEO, Dennis W. Archer PLLC, Detroit

Jessica A. Bacher, Professor and Executive Director, Land Use Law Center, Elisabeth Haub School of Law, Pace University, White Plains, NY

Karen L. Black, CEO, May 8 Consulting, Inc. Philadelphia, PA

Molly R. Bryson, Ballard Spahr, Washington, D.C.

Hon. Peter Buchsbaum, Judge, New Jersey Superior Court (ret.), Trenton, NJ

Martha Harrell Chumbler, Carlton Fields Jorden Bert, Tallahassee, FL

Daniel P. Dalton, Dalton & Tomich, Detroit, MI

Antonia Fasanelli, Executive Director, Homelessness Persons Representation Project, Baltimore, MD

W. Andrew Gowder, Jr., Austen & Gowder, Charleston, SC

Jay Greene, Chief Operating Officer and Acting Deputy Commissioner, Baltimore City Department of Housing and Community Development, Baltimore, MD

Tisha Guthrie, Advocate, Baltimore, MD

Hon. Glenn T. Harrell, Jr., Judge, Court of Appeals (ret.), Baltimore, MD
Victoria Herrmann, President and Managing Director, the Arctic Institute, Center for Circumpolar Security Studies, Washington, DC

Lisa Hodges, Executive Director, NAACP Baltimore City Chapter, Baltimore, MD

Robert G. Iber, Senior Advisor, Office of Multifamily Housing Programs, U.S. Department of Housing and Urban Development, Washington, DC

Steve Lafferty, Delegate, District 42A Maryland House of Delegates, Baltimore, MD

Matthew Littleton, Donahue, Goldberg & Weaver, LLP, Washington, DC

Alan Mallach, Center for Community Progress, Washington, DC

Victor Marquez, The Marquez Law Group, San Francisco, CA

Amy M. McClain, Ballard Spahr, Baltimore, MD

Dwight Merriam, Attorney at Law, Hartford, CT

James E. Parker-Flynn, Carlton Fields, Tallahassee, FL

Erica Levine Powers, Department of Geography & Planning, State University at Albany, Albany, NY

Ellen F. Rosenblum, Attorney General, State of Oregon, Salem, OR

Deborah Rosenthal, FitzGerald Yap Kreditor, LLP, Irvine, CA

Robert H. Thomas, Damon Key Leong Kupckak Hastert, Honolulu, HI

Charles E. Sydnor, III, Delegate, District 44 Maryland House of Delegates, Baltimore, MD

Amy Wilkinson, Director, Fair Housing Enforcement, Housing Authority, Baltimore, MD

Jill Williams, Board Member, Homelessness Persons Representation Project, Baltimore, MD

Meg Byerly Williams, Skeo Solutions, Inc., Charlottesville, VA
PROGRAM
(All times are Eastern Standard Time)

Thursday, April 11, 2019

12:15 p.m. Registration

12:45 p.m. Welcome
  • Ronald Weich, Dean, University of Baltimore School of Law
  • Ronald J. Kramer, Seyfarth Shaw, and Chair ABA Section of State and Local Government Law, Chicago, IL
  • Hon. Mary Ellen Barbera, Chief Judge, Maryland Court of Appeals, Annapolis, MD

Course Overview – Mr. Schnidman

1:15 p.m. **Update on Planning, Land Use, and Eminent Domain Decisions** *(2 CLE)*
  *Moderator: Mr. Merriam; Panel: Profs. Adams-Schoen and Bacher; Ms. Rosenthal; Messrs. Buchsbaum, Dalton, Gowder and Littleton*

The year’s course begins with a Thursday afternoon panel discussion of recent court decisions, providing a common foundation for all registrants to build a better understanding of the current state of land use law. Faculty will review a variety of Federal and state court cases that impact the daily activities of land use practitioners. The discussion will include key cases that deal with procedural and jurisdictional issues, as well as major decisions in numerous areas, including: Affordable Housing, Climate Change, Comprehensive Planning, Distressed Properties, Eminent Domain, Exactions, Historic Preservation, Impact Fees, Moratoria, Religious Land Use, Short-Term Rentals, Takings, Variances, Vested Rights and Wetlands.

3:15 p.m. Networking and Refreshment Break

3:30 p.m. **Ethical and Professionalism Considerations for the Land Use Practitioner and Government Lawyer** *(2 CLE)*
  *Moderator: Mr. Schnidman; Presentation: Ms. Salkin*

The afternoon session will conclude with 2 hours of ethics and professionalism instruction. The session will be an update of key issues facing practitioners. The discussion will include an overview of common aspects of professional ethics codes, and detail numerous specific challenges that land use practitioners face both from traditional activities and from the newer issues of the use of advertising and social media. There will be time for audience Q&A.

5:30 p.m. **Your Money’s No Good Here: Source of Income Discrimination in Maryland Housing** *(1 CLE)*
  *Moderator: Ms. Fasanelli*
  *Panel: Mss. Guthrie, Hodges and Williams; Delegates Lafferty and Sydnor*

The Thursday afternoon session concludes with “Your Money’s No Good Here: Source of Income Discrimination in Maryland Housing”. This panel, presented by the Section of Civil Rights and Social Justice, will focus on source of income discrimination and efforts at the Federal and state level to address the issue.
6:30 p.m. Adjourn for the day and Joint Welcome Reception held at School of Law with the ABA Section of State and Local Government Law Meeting participants and other co-sponsor organizations.

Friday, April 12, 2019

8:00 a.m. Networking and Continental Breakfast

8:30 a.m. Welcome - Prof. Audrey McFarlane, University of Baltimore School of Law

8:45 a.m. Annual Richard F. Babcock Faculty Keynote Address: “Detroit’s New GM Plant from Mayor Coleman Young to Mayor Michael Duggan” (1 CLE)

Introduction by Mr. Schnidman
Speaker: Dennis W. Archer, Former Mayor of Detroit (1986-1990 and 1994-2001); Former ABA President; Chairman Emeritus, Dickinson Wright PLLC, Chairman and CEO, Dennis W. Archer PLLC, Detroit

Richard F. Babcock was one of the twentieth century's greatest land use attorneys, and the first Chair of the predecessor to the Land Use Institute. In his honor, each year a selected faculty member presents a major address on a topic of substantial current interest. Michigan faculty member, former Detroit Mayor, and former ABA President Dennis W. Archer has been selected to present this year’s address, and his presentation is entitled, “Detroit’s New GM Plant from Mayor Coleman Young to Mayor Michael Duggan.” This presentation will review the issues and options that attorneys need to consider when negotiating major economic development incentive agreements. There will also be the opportunity to address participant questions.

9:45 a.m. Networking and Refreshment Break

10:00 a.m. Federal Laws, Regulations, and Programs Affecting Local Land Use Decision Making (1.5 CLE)

Moderator: Mr. Gowder; Panel: Mss. Bryson, Herrmann, Powers and Rosenthal; Judge (Ret.) Buchsbaum; Messrs. Dalton, Merriam, and Thomas

The federal government continues to encroach upon local government decision-making through a variety of policies and programs. This Friday morning session presents major current issues as they relate to environmental protection and real estate development at the local level, including the roll-back of regulations in selected programs. Among the topics to be discussed in detail are areas of the law where both government and private sector attorneys must now regularly interact with Federal laws, rules and regulations in areas that overlay state and local government laws and ordinances. Included among the topics that will be discussed are: Climate Change/Sea Level Rise, Endangered Species, Hazardous Materials, Historic Preservation, Hydraulic Fracturing; NEPA, Religious Land Use, Opportunity Zones, Water and Wetlands

11:30 a.m. Break for 11:45 am Lunch (Sponsored On-Site Box Lunch)
Women in the Law Luncheon Session (Co-Chairs Mss. Rosenthal and Salkin) Young Practitioners Luncheon Session (Co-Chairs Messrs. Gowder and Merriam)

12:45 p.m. Lunch Break Ends

1:00 p.m. CONCURRENT HOT TOPICS SESSIONS (1.5 CLE Each)

Nuts and Bolts of Land Use Practice: Bringing and Defending a Takings Case (CLE)
Moderator: Ms. Rosenblum; Panel: Judge (Ret.) Harrell; Messrs. Thomas and Littleton
This session will overview the basics elements of a cause of action in state and federal court for a Takings claim and the burden of proof necessary to overcome a motion to dismiss and have the court address the merits of the case. The session will also address the governmental defenses to a Takings claim, preparation of a motion to dismiss and procedural and substantive defenses.

The Latest Urban Redevelopment Incentive: Opportunity Zones/Opportunity Funds (CLE)
Moderator: Ms. Chumbler; Panel: Ms. Bryson and Mr. Marquez
The Opportunity Zone/Opportunity Fund legislation was enacted as part of the Tax Cuts and Jobs Act in December 2018. It has the possibility of being one of the most important source of incentivized private redevelopment financing ever created by federal tax legislation. This capital gains deferral and forgiveness program will be discussed in detail by both tax attorneys and redevelopment attorneys, and specific guidance will be provided on finding where Zones are located, how funds are created, and how the investment and redevelopment goals of the private and public sectors can be met through use of both the Opportunity Zones/Opportunity Funds and existing redevelopment incentives.

Update on Form Based Codes (CLE)
Moderator: Mr. Merriam; Panel: Ms. Rosenthal; Mr. Gowder
There is now a wealth of experience gained with the use of form based codes as an alternative to traditional zoning, this session will discuss the details of Form Based Codes and how and why they evolved and when it is appropriate for them to be considered. Presentations will also review how they work and the jurisdictions where they are currently being implemented.

2:30 p.m. Networking and Refreshment Break

2:45 p.m. CONCURRENT HOT TOPICS SESSIONS (1.5 CLE Each)

Nuts and Bolts of Land Use Practice: Bringing and Defending a Religious Land Use and Institutionalized Persons Act (RLUIPA) Case (CLE)
Moderator Mr. Thomas; Panel: Ms. Rosenthal; Messrs. Dalton and Merriam
Disputes between religious institutions and local governments are increasingly ending up in the courts based upon a statutory RLUIPA cause of action. Experienced practitioners representing both religious institutions and government will discuss how to first approach mediation and compromise to resolve conflicts, and when necessary, prepare an effective case or defense to a RLUIPA challenge.
Effective Legal Tools for Problem and Distressed Properties (CLE)
Moderator: Ms. Williams; Panel: Prof. Bacher; Ms. Black; Mr. Mallach
Local governments all over the United States are faced with private property that has either been abandoned or allowed to reach a slum or blighted condition. This panel will review the findings in an ABA publication on the topic, providing examples to the role of attorneys in successfully analyzing the regulatory and incentive tools available, and the criteria to use in determining which approaches will work for specific local governments.

Climate Change and Resilient Development (CLE)
Moderator: Ms. Powers; Panel: Prof. Adams-Schoen; Ms. Herrmann; Mr. Parker-Flynn
Federal, state and local governments to varying degrees are recognizing the threat from sea level rise and climate change, and are modifying planning and regulatory requirements to require new development to meet standards that are enhanced to protect against the impacts of climate change. This panel will describe threats that are being addressed, and discuss the political and financial realities of needed actions and the laws that are being amended to foster development that will withstand the impact of climate change. The panel will also discuss the action and inaction at the federal level, and how that behavior is impacting state and local governmental actions.

4:15 p.m. Networking Break

4:30 p.m. Building Regional Approaches to Housing and Revitalization in Baltimore (1.5 CLE)
Moderator: Ms. McClain; Panel: Ms. Wilkinson; Messrs. Greene and Iber
This final plenary session is jointly sponsored with the ABA Forum on Affordable Housing and Community Development Law. This panel includes leaders from the Housing Authority of Baltimore City, the State of Maryland, and the U.S. Department of Housing and Urban Development. The panel discussion will cover initiatives and challenges to implementing regional and multi-dimensional approaches at the local, state and Federal levels to revitalize Baltimore’s neighborhoods. As in communities across the United States, in the face of decades of neighborhood disinvestment, questions to be addressed include: what regional strategies are available to move residents to communities of opportunity while also rebuilding areas that lag behind? What legal tools are available in this overall effort and what Fair Housing and other legal parameters impact how projects are conceived and the funding sources that are made available to them?

6:00 p.m. Adjournment

6:00 p.m. Museum Visit and Dinner with Section of State and Local Government Law at the Reginald F. Lewis Museum of Maryland African American History & Culture (Ticketed Event)

CLE instruction: 12 credit hours, including 2 hours of Ethics CLE.
GENERAL INFORMATION

MCLE
The ABA will seek 12 hours of CLE general credit in 60-minute states, and 14.40 hours of CLE general credit for this program in 50-minute states, including 2.0 hours of CLE ethics credit in 60-minute states and 2.40 hours of CLE ethics credit in 50-minute states.

Credit hours are estimated and are subject to each state's approval and credit rounding rules. Please visit the program website at www.ambar.org/lui2019 for program CLE details or visit www.ambar.org/mcle for general information on CLE at the ABA.

SCHOLARSHIP
Financial scholarship applications are available for this conference. To request an application or receive additional information, please go to this link: https://www.americanbar.org/events-cle/abaclscholarship/

PROGRAM LOCATION
John and Frances Angelos Law Center University of Baltimore School of Law 1401 North Charles Street
Baltimore, MD 21201
TEL: 410-837-4468
WEB: http://law.ubalt.edu/

Royal Sonesta Harbor Court 550 Light Street
Baltimore, MD 21202
TEL: 410-234-0550

SAVE THE DATE: Land Use Institute: Tampa, FL April 23-24, 2020